

Customer No. 24498  
Attorney Docket No.: PU030061  
Final Office Action Dated: 01/05/2010

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**Remarks and Arguments**

Claims 8 - 26 are pending. No amendments have been made to the claims.

At the outset, applicants submit that the rejection is improper as it fails to address applicants' still relevant prior arguments, as required by MPEP section 707.07(f) ("The examiner **must, however, address any arguments presented by the applicant** which are still relevant to any references being applied." (emphasis added)). As far as Applicants can determine, the present rejections essentially repeat the claims at issue and cite the same portions of the Marker reference as the prior Office Action as the basis for rejection. The office action does not provide any explanation of how the cited portions remain relevant in view of applicants' arguments.

In the prior response, applicants have provided reasons as to why, for example, the use of transport packets having identifier is not found in the Marker, as well as why the splitting routine of Marker is distinguishable from the dividing and communicating steps of the present claims. The reasons distinguishing the present claims from Marker are further discussed below. If the present rejections are maintained, applicants respectfully request that the examiner provide further details of the application of the Marker reference to the present claims so that applicants can more fully address the examiner's concerns.

**Rejection of claims 8, 10-14, 16-19, 21-22 and 24 - 26 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 4,802,220 issued to Marker (hereinafter referred to as "Marker").**

Claims 8, 10-14, 16-19, 21-22 and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Marker. Applicants respectfully traverse this rejection for at least the following reasons.

Claim 8 recites in part:

*" communicating the encrypted program signal via a first communications channel, the encrypted program signal being transmitted via first transport packets, each first transport packet*

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***having a first identifier associated with the program signal"***

(emphasis added).

Marker does not recite "*the encrypted program signal being transmitted via first transport packets, each first transport packet having a first identifier associated with the program signal.*" The system in Marker uses circuit-switched channels to transmit messages between user stations. For the entire length of the communication session between two user stations, the transmission path is dedicated and exclusive. The transmission path is released when all the messages arrive at the receiving user station.

By contrast, in a packet-based communication channel, the transmission path is not dedicated and exclusive. Other packets can be transmitted within the same communications channel. An identifier is used to associate a packet with its program signal so that it can be reassembled to make the original program signal.

The Examiner contends that Marker recites "*the encrypted program signal being transmitted via first transport packets, each first transport packet having a first identifier associated with the program signal*" at col. 1, line 59 to col. 3, line 7; col. 11, line 10 to col. 12, line 42; and col. 15, line 25 to col. 16, line 19. The cited sections recite the use of terminal adapters to transmit and receive bits of a message through a circuit-switched network. However, the cited sections in Marker do not recite the use of packets nor do the cited sections in Marker recite the use of an identifier in each transport packet. This is not surprising since packets are not used in a circuit-switched network and as such, there would be no need to use an identifier in each transport packet. Accordingly, Marker does not recite "*the encrypted program signal being transmitted via first transport packets, each first transport packet having a first identifier associated with the program signal.*"

Claim 8 recites in part:

***"communicating the plurality of encryption information portions via a second communications channel that is independent of the first communications channel, the encrypted information portions being transmitted via second transport packets, each second transport***

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*packet having a second identifier associated with the encryption information"* (emphasis added).

Marker does not recite *"the encrypted information portions being transmitted via second transport packets."* In the system of Marker, the message splitting and recombining routines and random number seed values are stored in the terminal adapter. As such, there is no need to transmit these routines and seed values since they are already stored in the terminal adapter that receives the transmitted message. A security signal code that identifies which particular message splitting routine and seed value to use to recombine a message is transmitted to the receiving and terminal adapters. However, this security signal code is not the "plurality of encryption information portions" of the claimed invention. By contrast, the encryption information portions are used to decrypt a program signal. The security signal code is not used to recombine a message. Instead, the stored recombining routine and random number seed values in the terminal adapters are used to recombine a message. As such, Marker does not recite *"the encrypted information portions being transmitted via second transport packets."*

Additionally, Marker does not mention anything regarding "dividing the encryption information into a plurality of encryption information portions." Rather, the system of Marker splits the information, but does not split the security signal code that identifies which particular message splitting routine and seed value is used. In fact, the splitting routine and seed value is referenced by a memory location used to store the selected splitting routine and seed value in the receiver device (see, for example, col. 13, lines 10-15). Thus, Marker fails to disclose or suggest a notable feature of the claimed invention.

Accordingly, claim 8 is not anticipated by Marker. The remaining independent claims 14, 19, and 22 recite the above-referenced features, and are believed to be patentably distinguishable over the cited reference for the same reasons as discussed with respect to amended claim 8. Furthermore, dependent claims 9 – 13, 15 – 18, 20 – 21, 23 – 26 recite the features of their respective independent claims and are not anticipated by Marker for the aforementioned reasons.


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**Conclusion**

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited.

It is believed that there are no additional fees due with regard to the filing of this response. However if there is an additional fee due, please charge the fee, or credit any overpayment, to Deposit Account No. 07-0832.

Respectfully submitted,

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